



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Central Region
1234 East Shaw Avenue
Fresno, California 93710
(559) 243-4005
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



Governor's Office of Planning & Research

April 30, 2021

STATE CLEARINGHOUSE

April 29, 2021

Meg Prince
Fresno Council of Governments
2035 Tulare Street, Suite 201
Fresno, California 93721
mprince@fresnocog.org

**Subject: 2022 Regional Transportation Plan/Sustainable Communities Strategy
(RTP/SCS) (Project)
Notice of Preparation (NOP)
SCH No.: 2021040014**

Dear Ms. Prince:

The California Department of Fish and Wildlife (CDFW) received a NOP from the Fresno Council of Governments (Fresno COG) for the above-referenced Project pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, CDFW appreciates the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under Fish and Game Code.

CDFW ROLE

CDFW is California's **Trustee Agency** for fish and wildlife resources and holds those resources in trust by statute for all the people of the State (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a)). CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (*Id.*, § 1802). Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

¹ CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

Meg Prince
Fresno Council of Governments
April 29, 2021
Page 2

CDFW is also submitting comments as a **Responsible Agency** under CEQA (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority (Fish & G. Code, § 1600 et seq.). Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), related authorization as provided by the Fish and Game Code will be required.

PROJECT DESCRIPTION SUMMARY

Proponent: Fresno COG

Objective: The Project is the preparation of the 2022 RTP/SCS. Fresno COG is in the process of preparing the RTP/SCS as required by Section 65080 et seq., of Chapter 2.5 of the California Government Code, federal guidelines pursuant to new requirements established in the federal surface transportation reauthorization, "Moving Ahead for Progress in the 21st Century" and the Fixing America's Surface Transportation (FAST) Acts, Transportation Conformity for the Air Quality Attainment Plan per 40 CFR Part 51 and 40 CFR Part 93, and requirements set forth in Assembly Bill 32, The California Global Warming Solutions Act of 2006, and Senate Bill 375 The Sustainable Communities and Climate Protection Act of 2008. The California Transportation Commission (CTC) has prepared guidelines (most recently adopted by the CTC on January 18, 2017) to assist in the preparation of the RTP/SCS. The 2022 RTP/SCS will address all transportation modes including motor vehicles, transit (commuter and local), rail (commuter and interregional), goods movement (rail freight and trucking), bicycle and pedestrian facilities, aviation systems, and transportation systems management (TSM) programs and projects considering the horizon year of 2046.

Location: The Project site is located within the corporate limits of Fresno County, California, including the fifteen (15) incorporated cities (Clovis, Coalinga, Firebaugh, Fowler, Fresno, Huron, Kerman, Kingsburg, Mendota, Orange Cove, Parlier, Reedley, San Joaquin, Sanger, and Selma) and all unincorporated areas under the jurisdiction of the County of Fresno.

Timeframe: The RTP/SCS is a long-range plan for all modes of transportation through the year 2046.

COMMENTS AND RECOMMENDATIONS

The NOP indicates that the Environmental Impact Report (EIR) for the Project will describe existing environmental conditions in the Project area, and analyze potential impacts resulting from Project activities. The EIR will also identify and evaluate alternatives to the proposed project.

Meg Prince
Fresno Council of Governments
April 29, 2021
Page 3

When an EIR is prepared, the specifics of mitigation measures may be deferred, provided the lead agency commits to mitigation and establishes performance standards for implementation. Several special-status plant and animal species that have been documented in Project area per the California Natural Diversity Database (CNDDDB), including but not limited to, the State and federally threatened California tiger salamander (*Ambystoma californiense*), the State threatened Swainson's hawk (*Buteo swainsoni*), the State threatened tricolored blackbird (*Agelaius tricolor*), the State endangered great gray owl (*Strix nebulosa*), the State endangered foothill yellow-legged frog (*Rana boylei*), the State fully protected golden eagle (*Aquila chrysaetos*) and white-tailed kite (*Elanus leucurus*), the State endangered and fully protected bald eagle (*Haliaeetus leucocephalus*), the State threatened and federally proposed endangered Sierra Nevada red fox (*Vulpes vulpes nescator*), the State threatened and federally endangered fisher (*Pekania pennanti*), the State and federally endangered Hartweg's golden sunburst (*Pseudobahia bahiifolia*), the State endangered and federally threatened succulent owl's clover (*Castilleja campestris var. succulenta*), and the State species of special concern burrowing owl (*Athene cunicularia*), California spotted owl (*Strix occidentalis occidentalis*), and western spadefoot toad (*Spea hammondi*). While this list may not include all special-status species present Project area, it does provide a robust source of information as to which species could potentially be impacted. CDFW recommends the EIR prepared for the Project analyze potential impacts to these species provide measurable mitigation measures that, as needed, will reduce impacts to less than significant levels. More information on survey and monitoring protocols for sensitive species can be found at CDFW's website (<https://www.wildlife.ca.gov/Conservation/Survey-Protocols>).

CDFW also recommends consulting with the USFWS on potential impacts to federally listed species including, but not limited to, California tiger salamander, Sierra Nevada red fox, fisher, Hartweg's golden sunburst, succulent owl's clover, and vernal pool invertebrates. Take under the Federal Endangered Species Act (FESA) is more broadly defined than CESA; take under FESA also includes significant habitat modification or degradation that could result in death or injury to a listed species by interfering with essential behavioral patterns such as breeding, foraging, or nesting. Consultation with the USFWS in order to comply with FESA is advised well in advance of any ground disturbing activities.

In addition to potential species impacts, it is likely that some Project activities that will be subject to CDFW's regulatory authority pursuant Fish and Game Code section 1600 et seq. If a Lake or Streambed Alteration Agreement (LSAA) is needed, CDFW is required to comply with CEQA in the issuance or the renewal of a LSAA. Therefore, for efficiency in environmental compliance, we recommend that any potential lake or stream disturbance that may result from Project activities be described, and mitigation for the disturbance be developed as part of the EIR. This will reduce the need for CDFW to require extensive additional environmental review for a LSAA in the future. If inadequate, or no environmental review, has occurred, for the Project activities that are subject to notification under Fish and Game Code section 1602, CDFW will not be able to issue the Final LSAA until CEQA analysis for the project is complete. This may lead to considerable Project delays.

Meg Prince
Fresno Council of Governments
April 29, 2021
Page 4

CDFW is available to meet with you ahead of Draft EIR preparation to discuss potential impacts and possible mitigation measures for some or all of the resources that may be analyzed in the EIR. If you have any questions, please contact Kelley Nelson, Environmental Scientist, at the address provided on this letterhead or by electronic mail at Kelley.Nelson@wildlife.ca.gov.

Sincerely,

DocuSigned by:

FA83F09FE08945A...
Julie A. Vance
Regional Manager

cc: Regional Water Quality Control Board
Central Valley Region
1685 "E" Street
Fresno, California 93706-2020

United States Army Corps of Engineers
San Joaquin Valley Office
1325 "J" Street, Suite #1350
Sacramento, California 95814-2928

ec: California Department of Fish and Wildlife:
Veronica Salazar, LSA Program
Veronica.Salazar@wildlife.ca.gov
Margarita Gordus, Timber Harvest
Margarita.Gordus@wildlife.ca.gov

United States Fish and Wildlife Service
Patricia Cole; Patricia_Cole@fws.gov

Meg Prince
Fresno Council of Governments
April 29, 2021
Page 5

LITERATURE CITED

CDFW. 2021. Biogeographic Information and Observation System (BIOS).
<https://www.wildlife.ca.gov/Data/BIOS>.